

§ 904.7

12 CFR Ch. IX (1–1–98 Edition)

(v) Determinations concerning waiver or reduction of fees shall be made by the Executive Secretary.

(vi) Appeals from such determinations shall be decided by the Finance Board, or its designee.

(j) *Fee payment method.* Fees assessed under this part will be delivered to the Executive Secretary by check or money order, payable to the “Federal Housing Finance Board.”

(k) *FAX transmission.* The Executive Secretary and the requester may agree that any Finance Board records made available pursuant to a request under this part may be made by facsimile transmission (“FAX”). The charge for FAX transmission shall be the long distance charge on the telephone call, or \$.25 for a call within the metropolitan Washington area in addition to a \$.25 per page charge for use of the FAX apparatus.

(l) *Fee schedule.* Fees for searching, reviewing, duplicating, and providing Finance Board records under this section will be assessed in accordance with the following schedule:

Search (Manual):	
Supervisory/Professional	
Staff .....	\$16.00 per hour.
Clerical Staff .....	\$8.00 per hour.
Search (Computer):	
Operator .....	\$16.00 per hour.
Computer output (PC).	\$6.00 per hour.
Computer output (Mainframe).	[Actual cost].
Review .....	\$16.00 per hour.
Duplication:	
Photocopy .....	\$0.10 per page.
Computer generated.	\$0.76 per 1000 lines.
Copy of microfiche	\$0.30 per page.
Transcription of audio tape.	\$4.50 per page.
Certification with seal and attestation by:	
Executive Secretary.	\$5.00 per document.
Address labels .....	\$8.00 per 1000 labels.

(m) *Other charges.* Complying with requests for special services associated with providing records (e.g., supplying special computer tabulations, or sending copies by express mail or messenger) is entirely at the Finance Board's discretion, and fees will be as-

sessed to recover the actual cost of such services.

**§ 904.7 Records not disclosed.**

(a) *General.* Except as otherwise provided in this part, or as may be specifically authorized by the Finance Board, Finance Board records not otherwise publicly available will not be disclosed to a requester if such records are:

(1) *Authorized.* (i) Under criteria established by an Executive order to be kept secret because of national defense or foreign policy, and

(ii) In fact so classified pursuant to such order.

(2) Related solely to Finance Board internal personnel rules and practices.

(3) Specifically exempted from disclosure by:

(i) A statute other than the FOIA if:

(A) It requires that the record be withheld from the public in such a manner as to leave no discretion to the Finance Board; or

(B) It establishes particular criteria for withholding or refers to particular types of records to be withheld; or

(ii) Section 22 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1442).

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Inter-agency or intra-agency memoranda or letters that would not be available by law to a requester other than an agency in litigation with the Finance Board, including records of deliberation between Finance Board members and staff.

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

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(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution or a Federal Home Loan Bank which furnished information on a confidential basis, and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of an individual.

(8) Contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of the Finance Board, a Financial Regulatory Agency or a Federal Home Loan Bank.

(b) *Segregation.* Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt from disclosure under this section.

(c) *Prohibition against disclosure.* (1) Except as authorized by this part or otherwise by the Finance Board, no Finance Board officer, employee, or agent shall disclose or permit disclosure of any unpublished Finance Board record to anyone (other than another officer, employee, or agent properly entitled to such information for the performance of official duties), whether by giving out or furnishing such record or a copy thereof or by allowing any person to inspect, examine or copy such record or copy thereof, or otherwise. Notwithstanding the foregoing, unpublished economic, statistical or similar information or unpublished records regarding Finance Board interpretations of statutory or regulatory provisions may be disclosed, orally or in writing, by a Finance Board officer, employee or agent, subject, however, to the restrictions stated in this section.

(2) Notwithstanding any other provision in this part, no disclosure of a record will be made to a requester when the Executive Secretary determines that such requester has failed to make a timely payment of a fee charged for a previous request for records under § 904.6(g) until such time as such requester pays the full fee plus accrued interest to the Finance Board.

### **§ 904.8 Disclosure of Federal Home Loan Bank examination reports to Financial Regulatory Agencies.**

The Director of the District Banks Directorate may disclose a report of examination of a Federal Home Loan Bank, or related record, to a Financial Regulatory Agency. Before disclosing such report, the Director shall make an affirmative determination that the requesting agency official is authorized to request the record on behalf of the agency and that the records are requested for a legitimate regulatory purpose and that the requesting agency has agreed not to disclose the contents of the record pursuant to the FOIA or the agency's regulations.

### **§ 904.9 Records of Financial Regulatory Agencies held by Federal Housing Finance Board.**

(a) *Policy.* The Finance Board will not disclose information contained in records that have been given to it by one of the financial regulatory agencies.

(b) *Procedure.* Upon a receipt of a request for a record that was created by by another financial regulatory, the Finance Board will promptly forward the request to the appropriate financial regulatory agency and also will notify the requester of this action. No further action by Finance Board will be taken on the request.

### **§ 904.10 Service of process.**

(a) *Service on agency.* Any legal process served on the Finance Board demanding access to its records under the FOIA shall be addressed to the Executive Secretary and may be served by mailing the process, by certified mail, postage prepaid, to the address shown in § 904.5(b)(1).